4437.

SUPREME COURT OF THE UNITED STATES.

No. 149.

ALEXANDER H. WEEMS, PLAINTIFF IN ERROR,

vs.

ANN GEORGE AND AL.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES, FOR THE EASTERN DISTRICT OF LOUISIANA.

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Gibson & Co., Print.

Circuit court of the United States, fifth circuit and eastern district of Louisiana.

ANN GEORGE et als.
vs.
ALEXANDER W. WEEMS. } No. 1861.

Pleas and proceedings before the honorable the circuit court of the United States, for the fifth circuit and eastern district of Louisiana, being the December term, 1849, of the said court, held at the city of New Orleans, in the district aforesaid, on the fourth day of April, A. D. 1850.

Be it remembered, that heretofore, to wit, on the first day of December, A. D. one thousand eight hundred and forty-nine, came the plaintiffs, Ann George et als., by their attorneys, Segur & Bonford, and J. S. Halsey, and filed in the clerk's office of said court a petition in the words and figures following, to wit:

Petition.

To the honorable the judges of the circuit court of the United States, for the eastern district of Louisiana.

The petition of Ann George, Connolly George, Rose Ann George, wife of John Steen, Mary Ann George, wife of Thomas Conn, Nancy George, wife of James Gilmour, Margaret George, wife of William Miller, and of said John Steen, Thomas Conn, James Gilmour, and William Miller, respectfully avers, that they are all aliens and subjects of the Queen of Great Britain and Ireland, and reside all in Londonderry county, Ireland, excepting said Margaret and William Miller, who reside in the State of Illinois. That Alexander W. Weems, who is a citizen of the State of Louisiana, and resides in the parish of St. Tammany, and within the jurisdiction of this court, is indebted to petitioners, the said Ann George, Connolly George, Rose Ann George, Mary Ann George, Nancy George, and Margaret George, in the sum of four thousand eight hundred and thirty-five dollars and eighty-eight cents, with interest on the sum of $1,955 60 of said sum of four thousand eight hundred and thirty-five dollars and eighty-eight cents, from 13th day of June, 1849, at six per centum per annum; for this, to wit, that on the 16th day of February, 1846, said Weems bought from one Alexander George, late of said parish of St. Tammany, now deceased, the undivided half of a certain island and appurtenances, in the parish of St. Tammany, for the price of nine thousand dollars, payable on certain terms.

And the said Alexander George and said Weems agreed that, in case of the failure in any respect of either of them to comply with the spirit of the said contract, he should forfeit to the other the sum of two thou-

sand dollars. That subsequently, to wit, on the 15th December, 1846, said George and said Weems agreed to divide said island, and certain personal property appurtenant to it, between them; and, on the 14th January, 1847, executed an act of partition of said property. That, in said act of partition, said Weems promised to said George to pay, as a part of the price, as aforesaid, at their respective dates of maturity, certain promissory notes which said George had executed in favor of one John McClain Durand, who endorsed them to his wife, Mrs. L. A. Whorry, the vendor to said George of said island, and which were secured by mortgage on said island. That said George performed his part of the contract of the 16th day of Feb., 1846. That two of said notes, say one for the sum of thirteen hundred and five dollars and thirty-eight cents, the 14th day of May, A. D. 1844, payable the first January, A. D. dated 1848; the other for the sum of twelve hundred and fifty dollars twenty-two cents, dated also the 14th May, 1844, and payable the first January, 1849, have matured, and said Weems did not pay their said amount at maturity, and said notes were protested for non-payment. That said Weems paid a part of said note for thirteen hundred and five dollars and thirty-eight cents, to wit, six hundred dollars of it, on the 4th January, 1848. That all said notes are identified with an authentic act of sale from the said vendor of said George to said George, and that it was agreed in said act that said notes should bear interest at six per cent. per annum after maturity, if not punctually paid; and said Weems was aware of said agreement, and assumed also to pay interest on said notes after maturity until paid, at six per cent. per annum.

Your petitioners aver that said Alexander George is dead; that petitioners, said Ann George, Connolly George, Rose Ann George, Mary Ann George, Nancy George, and Margaret George, are, and have been, recognised to be the heirs of said Alexander George; that his succession was opened in the 8th judicial district court of the State of Louisiana, for the parish of St. Tammany, and that said court has recognised said petitioners to be, as aforesaid, the heirs of said George, and have put said petitioners in possession of the estate and effects of said Alexander George, and that said estate is yet undivided. That, in the month of April, A. D. 1849, the said Mrs. Durand and her said husband having in vain endeavored to collect the amount due on said two notes from said A. W. Weems, both amicably and by suit, asked your said petitioners to pay the said amount; and said petitioners being unable to pay said amount, she instituted suit against all your petitioners, and recovered judgment in this honorable court for said amount; and, in execution of said judgment, caused a writ of fieri facias to issue from this court, and the marshal of the United States for said district, under said writ, did seize and sell certain slaves belonging to your petitioners, the said heirs, and derived from said A. George. That said slaves were sold on the 13th June, 1849; that the said amount due on said notes at that date, and the costs of said protests, and the costs of said execution, amounted to two thousand four hundred and thirty-five dollars and eighty-eight cents, and the proceeds of the sale of said slaves paid the said sum of two thousand four hundred and thirty-five dollars and

eighty-eight cents; that there was another slave belonging to your petitioners, the said heirs, also seized under said writ by said marshal; that all said slaves were, at the time they were thus seized, and had been for several years, in the parish of St. Tammany; that said marshal, when he had seized them as aforesaid, brought said slaves to the city of New Orleans; that, at the time, the said parish of St. Tammany was perfectly healthy, and the said slaves were then perfectly well, but the Asiatic cholera was raging in the city of New Orleans, and in consequence of said removal of said slaves, and exposure in the said city, the said other slave, to wit, a boy called Prunirs, of the age of years, and of the value of four hundred dollars, was attacked by the Asiatic cholera in the city of New Orleans and there died of said cholera.

Petitioners aver that said Alexander W. Weems, although thereunto amicably requested, has refused to pay to your petitioners, the said heirs, the said sum of four thousand eight hundred and thirty-five dollars and eighty-eight cents, with interest, as aforesaid, in which he is indebted to your petitioners as aforesaid. And petitioners pray that said Alexander W. Weems be cited to answer this petition, and, after due process, be condemned to pay to your petitioners, the said heirs, the said sum of four thousand eight hundred and thirty-five dollars and eighty-eight cents, with interest, as aforesaid, and all costs; and petitioners further pray for general relief.

SEGUR & BONFORD, and
J. S. HALSEY,
Attys. for petitioners.

And afterwards, to wit, on the 22d December, 1849, the defendant, by his counsel, filed in the clerk's office the following plea:

ANN GEORGE et als.
vs.
ALEX'R W. WEEMS.
} 1861. U. S. circuit court.

Now comes the defendant in the above entitled suit, and says, that this court is without jurisdiction to hear and determine the said suit, because, he says—

1st. That the plaintiffs named in the petition are not aliens, as therein set forth.

2d. That the said Alexander George, in his lifetime, was, and the said John McClain Durand and his said wife, all named in the petition, are, and were, before and at the time of the pretended contracts, notes, &c., in the said petition mentioned, and ever since have been, citizens of this State; and the said Alexander George, at the time of his decease, was a citizen of this State. And this respondent avers that, whatever interest the plaintiffs have in the matters and causes set forth in the petition, they have derived either from said Alexander George or said Durand and wife; so that, in fact, this court is without jurisdiction as aforesaid.

Wherefore this respondent prays to be hence dismissed, with his costs, &c.

CHARLES M. EMERSON,
Defendant's attorney.

And afterwards, to wit, on the 31st December, A. D. 1849, the following entry was made on the minutes of the said court:

ANN GEORGE et als. vs. ALEX. W. WEEMS. } 1861.

On motion of J. S. Halsey, attorney for the plaintiffs, it is ordered, that the defendant show cause, on Saturday, the 5th day of January, 1850, at 10 o'clock, a. m., why a default should not be entered against him, notwithstanding the exception filed, unless on or before said date the said defendant answers further and to the merits.

And afterwards, on the fifth of January, 1850, the following entry was made on the minutes:

ANN GEORGE et als. vs. ALEX. W. WEEMS. } 1861.

The rule herein taken by the plaintiffs, having been returnable this day, was, by consent of parties, submitted to the court, on briefs to be furnished on or before Wednesday next, the 9th instant.

And afterwards, to wit, on the 23d January, 1850, the following entry was made on the minutes:

ANN GEORGE et als. vs. ALEX. W. WEEMS. } 1861.

The rule herein taken by the plaintiffs, on the 31st December, 1849, having been submitted to the court on a former day, and the court having maturely considered the same, doth now order that the same be made absolute.

And afterwards, on the 25th January, 1850, the following entry was made on the minutes:

ANN GEORGE et als. vs. ALEX. W. WEEMS. } 1861.

On motion of Emerson and Whittaker, esqs., of counsel for defendant, and on presenting a petition praying oyer of certain papers, it is ordered that they have leave to file the same, and that the plaintiffs be notified thereof.

Petition for oyer, filed 25th January, 1850.

ANN GEORGE et als. vs. ALEX. W. WEEMS. } 1861.

United States' circuit court.

Now comes the defendant in the above entitled suit, and shows that the demands, or a portion of them, set forth in the petition, purport to be founded upon bonds, contracts, and promissory notes, and upon other obligations which, it is alleged in said petition, bear the signature of defendant, and which are not annexed to the petition, or filed with the papers in this case.

The defendant, therefore, prays oyer of the said bonds, contracts, notes, and obligations, and prays that plaintiff be required to file them within ten days; and in default of filing them within ten days from the date of the order, that the suit be dismissed.

CHARLES M. EMERSON.
J. S. WHITTAKER,
Of counsel.

Endorsement on the foregoing. Accept service.
J. S. HALSEY,
Attorney for plaintiff.

And afterwards, to wit, on the 9th February, 1850, the following entry was made on the minutes:

ANN GEORGE et als.
vs.
ALEX. W. WEEMS. } 1861.

On motion of J. S. Halsey, attorney for the plaintiffs, and on showing to the court that the defendant, A. W. Weems, was duly cited, on the 8th day of December, 1849, and has not yet answered in this case, and that documents, of which said defendant has prayed oyer, are on file in this suit, and in the suit of J. M. Durand et Ux. vs. Heirs of A. George, No. 1828, in this court, it is ordered that a judgment by default be entered against said A. W. Weems.

And afterwards, on the 18th February, 1850, the following entry was made on the minutes:

ANN GEORGE et als.
vs.
ALEX. W. WEEMS. } 1861.

On motion of Charles M. Emerson, of counsel for defendant herein, and on suggesting that, heretofore, on prayer made by defendant for oyer of the documents, obligations, &c., set forth and alluded to in plaintiffs' petition, and upon which this suit is founded, it is ordered by the court that said documents, obligations, &c., be produced and filed; and suggesting, that, since the said prayer for oyer, and said order of court, the plaintiffs have taken judgment by default, without having filed or produced all of said documents and obligations, and that said

judgment is therefore premature; it is ordered that plaintiffs show cause, on Saturday, the 23d inst., at 10 o'clock, a. m., why said judgment should not be set aside.

And afterwards, on the 23d February, 1850, the following entry was made on the minutes:

ANN GEORGE et als.
vs. } 1861.
ALEX. W. WEEMS.

The rule herein taken by the defendants on the plaintiffs to show cause why the judgment by default herein taken should not be set aside, this day came on to be heard; when, after argument of counsel, it was ordered that the same be overruled.

And afterwards, on the 25th February, 1850, the following entry was made on the minutes:

ANN GEORGE et als.
vs. } 1861.
ALEX. W. WEEMS.

On motion of Emerson, esq'r, attorney for defendant, it is ordered that the default herein taken be set aside, and that he be allowed to file his answer.

Answer, filed 25th Feb'y, 1850.

ANN GEORGE et als.
vs. } 1861.
ALEX. W. WEEMS.

U. S. circuit court, eastern district, Louisiana.

Now comes the defendant in the above entitled suit, and denies all and singular the allegations in the plaintiffs' petition contained; he denies specially that the plaintiffs are the heirs of said Alexander George, or that they have or ever had any interest in the succession of said Alexander George. He denies that plaintiffs ever authorized the institution of this suit, and avers that they have no interest in the pretended causes of action set forth in said petition. He avers, also, that he is in no manner liable to plaintiffs herein. Your respondent further says, that if at any time he has refused or failed to pay any of the notes mentioned in said petition, it was because one Rickerman had brought suit against the succession of said Alexander George, claiming a lien and privilege upon said island for work, labor, &c., in constructing a levee thereon, which lien and privilege neither said Durand nor the curator of said succession would discharge, and your respondent is in no way liable for the consequences of such refusal. Wherefore defendant prays to be hence dismissed with his costs, and for general relief, &c.

CHS. M. EMERSON,
J. S. WHITTAKER,
Defendant's att'ys.

Agreement of counsel, filed 11 *March*, 1850.

ANN GEORGE et als.
vs.
ALEX. W. WEEMS. } 1861.

It is agreed that, on the trial of this case, no objection shall be made by defendant to transcript of any portion of the record in the case of the succession of Alexander George, opened in the parish of St. Tammany, on the ground that the said transcript is not a transcript of the whole record of said case. All other objections are reserved.

C. M. EMERSON &
J. S. WHITTAKER,
Att'ys for defendants.

New Orleans, 26th Feb'y, 1850.

Stipulation, filed 11*th March*, 1850.

ANN GEORGE et als.
vs.
ALEX. W. WEEMS. } 1861.

The defendant may use, on the trial of this case, certified copies of so much of the record of the succession of Alex. George, opened in the 8th district court of the State of Louisiana, for the parish of St. Tammany, as are designated here, to wit:

1st. The petition and opposition of B. Rickerman to the tableau of distribution, filed by the curator of said succession.

2d. Motion for an appeal taken by opponent from judgment dismissing said opposition, and the order granting said appeal. The meaning of this agreement being that the plaintiff will not object to the admission of said copies when offered, that they shew only a part of the record of said succession; all other objections to the admission of said copies are reserved.

J. S. HALSEY,
Attorney for plaintiffs.

New Orleans, 26th Feb'y, 1850.

And afterwards, on the 3d April, 1850, the following entry was made on the minutes:

ANN GEORGE et als.
vs.
ALEX. W. WEEMS. } 1861.

On motion of Emerson and Whittaker, attorneys for defendant, it is ordered by the court that a subpœna duces tecum issue to H. P. Caire, notary public, commanding him to bring into court on the trial of this cause, on Thursday, the 4th instant, book 270 of the year 1844, containing lease from J. M. Durand to Rickerman, under private signature, and dated 9th March, 1843.

And afterwards, on the 4th April, 1850, defendant, by his counsel, filed the following plea:

Plea.

ANN GEORGE et als.
vs.
ALEX. W. WEEMS. } 1861.—U. S. circuit court.

Now comes the defendant in the above entitled suit, and says that the demands set forth in the petition are inconsistent, to wit: The claim of two thousand dollars, the pretended penalty claimed to be set forth in the contract on which this suit is, for the non-fulfilment of its conditions, and the claim for damages claimed to have resulted for the non-fulfilment of said contract; wherefore the defendant prays that the plaintiffs be required to elect which of said claims they will abandon, and which they will choose to retain. And as in duty bound, &c.

CHAS. M. EMERSON, *Defft's atty.*

And on the same day, to wit, on 4th April, 1850, the following entry was made on the minutes:

ANN GEORGE et als.
vs.
ALEX. W. WEEMS. } 1861.

This cause this day came on to be heard; Halsey and Bonford, esqrs., appearing for plaintiffs, and Emerson, esq., for defendant. When, after argument of counsel, the court being satisfied that the law and the evidence are in favor of the plaintiffs, doth order, adjudge, and decree, that the plaintiffs, Ann George et als., do have and recover judgment against the defendant, Alexander W. Weems, for the sum of two thousand eight hundred and thirty-five dollars and eighty-eight cents, with interest on nineteen hundred and fifty-five dollars and sixty cents of said sum from the 13th June, 1849, at the rate of six per cent. per annum; and on four hundred dollars of said sum from the 8th day of December, 1849, the day of judicial demand, at five per cent. per annum until paid, and costs of suit to be taxed.

Defendant's bill of exceptions.

ANN GEORGE et als.
vs.
ALEX. W. WEEMS. } 1861.

Be it remembered, that on the trial of this cause, the plffs. offered in evidence a certificate marked D, of one N. B. Harmer, clerk of the eighth judicial district court for the parish of St. Tammany, for the purpose of proving that certain claims against the succession of Alexander George were satisfied and paid by the heirs of said George. To the introduction of this document the defendant objected, on the ground that it was not competent nor within the official duties and acts of the

clerk to certify to the existence of facts from the inspection of, and from documents and papers on file in the suit; and that the facts and the papers shewing them should have been copied, and the certificate given as to the verity of the copy. The court overruled the objection and admitted the evidence.

Be it remembered, also, that on the trial of said cause the plaintiff offered one J. M. Durand as a witness to prove that he had brought suit against the defendant in this suit, the said Alexander W. Weems, to recover the amount of the notes set forth in this suit, and that said Weems had taken a suspensive appeal from an order of seizure and sale to the supreme court of the State of Louisiana. The defendant objected to these facts being stated by the witness, on the ground that it was not competent to prove the contents, or any part of the contents, or written documents, or of judicial records by parol, without first proving the destruction of the said documents or records. But the court overruled the objection and permitted the witness to testify to the facts above mentioned.

THEO. H. McCALEB,
U. S. Judge.

And afterwards, to wit, on the 8th April, 1850, the following entry was made on the minutes:

ANN GEORGE et als.
vs. } 1861.
ALEX. W. WEEMS.

On motion of Emerson and Whittaker, of counsel for defendant in the above entitled cause, and on suggesting to the court that the judgment herein rendered is clearly contrary to law and evidence; that it is contrary to law in allowing the costs of the suit of Durand vs. the present plaintiffs; in allowing the expense of a physician's bill for attendance on certain slaves, and in allowing the value of a slave who died; and that it is contrary to the evidence in allowing four hundred dollars for said slave, and in allowing the amount of said bill for medical services, said bill having been neither presented nor proved; and that it is contrary to law and the evidence in other respects. It is ordered that the plaintiff show cause, on Saturday next, the 13th day of April instant, at 10 o'clock, a. m., why the said judgment should not be set aside and a new trial granted.

And afterwards, on 13th April, 1850, the following entry was made on the minutes:

ANN GEORGE et als.
vs. } 1861.
ALEXANDER W. WEEMS.

The application herein made for a new trial was argued and submitted to the court, and taken under advisement.

And afterwards, to wit, on the 17th April, 1850, the plaintiffs filed in the clerk's office the following

Remittitur.

ANN GEORGE et als.
vs. } 1861.
ALEXANDER W. WEEMS.

And now the plaintiffs, by their attorneys, come into court and remit, of the judgment herein obtained by them, the sum of four hundred dollars, being damages allowed them for the loss of a negro boy while under seizure in the suit of Durand vs. The Heirs of George.

J. S. HALSEY & P. E. BONFORD,
Attorneys for plaintiffs.

Judgment on rule.

And afterwards, to wit, on the 19th day of April, 1850, the following entry was made on the minutes:

ANN GEORGE et als.
vs. } 1861.
ALEXANDER W. WEEMS.

In this case the court, considering that the plaintiffs have remitted the sum of four hundred dollars (as appears by their remittitur on file) allowed as damages for the loss of a negro boy, and that the judgment rendered is in all other respects correct, it is ordered, that the new trial be refused, and the rule discharged, and that the judgment rendered be amended by striking out said sum of four hundred dollars, and the interest allowed thereon, and that the same as so amended be engrossed and stand as the judgment of this court.

Final judgment.

ANN GEORGE et als.
vs. } 1861.
ALEXANDER W. WEEMS.

This cause this day came on to be heard; Halsey and Bonford, esqs., appearing for the plaintiffs, and Emerson, esq., for defendant. When, after argument of counsel, the court being satisfied that the law and the evidence are in favor of the plaintiffs, Ann George et als., doth order, adjudge, and decree, that the said plaintiffs do have and recover judgment against the defendant, Alexander W. Weems, for the sum of two thousand four hundred and thirty-five dollars and eighty-eight cents, with interest on nineteen hundred and fifty-five dollars and sixty cents of said sum, from 13th June, 1849, at the rate of six per centum per annum, until paid, and costs of suit to be taxed.

Judgment rendered 4th April, 1850.

Judgment signed 22d April, 1850.

THEODORE H. McCALEB, [SEAL.]
United States Judge.

4443.

Petition for writ of error, filed 29th April, 1850.

ANN GEORGE et als.
vs.
ALEXANDER W. WEEMS. } 1861.

United States circuit court.

Now comes the defendant in the above entitled suit, and to the court aforesaid respectfully shews: That he is aggrieved by the final judgment herein rendered, and that there is error in the same, in this, to wit:

1st. In overruling the plea of jurisdiction of the court, filed by defendant.

2d. In rendering judgment against the defendant when judgment should have been rendered in his favor, inasmuch as the suit is instituted upon the deed and act of sale, and not upon the notes, upon which the judgment was in fact rendered.

3d. That long prior to the institution of this suit one Durand had obtained judgment in this court against the present plaintiffs as the heirs of one Alexander George, deceased, upon the notes mentioned by the plaintiffs in their petition, and had levied upon, seized, and sold, to satisfy said last mentioned judgment, certain slaves belonging to said succession; that during the said proceedings last aforesaid, one Rickerman had instituted proceedings in the district court for the parish of St. Tammany, against the said succession, to recover the sum of four hundred and thirty-five dollars for constructing a levee upon the land purchased afterwards by the said Weems of said Alexander George; that said notes were drawn by said Alexander George, in part payment for said land, which the latter had purchased of said Durand. That the said proceedings instituted as aforesaid by said Rickerman were pending at the time suit as aforesaid was instituted by said Durand against the present plaintiffs.

And at the time of said judgment, and of said seizure and sale under said judgment, that in his said proceedings the said Rickerman claimed a judgment with privilege upon said land, under the laws of the State of Louisiana, which in such cases accords a lien, of all which the present plaintiffs had due notice; that of the plaintiffs herein were the heirs of said Alexander George; they were bound to pay said notes to said Durand, and to raise and cancel the lien upon said land; but that, nevertheless, the judgment now complained of embraces the costs of the said suit brought as aforesaid by said Durand, and of said seizure and sale, amounting to upwards of four hundred dollars, although in truth the said lien had not been cancelled at the time of said sale, and said Weems had good right to withhold the payment of said notes until said lien was cancelled.

4th. That the property so levied upon and sold as aforesaid consisted of slaves, all of whom were pointed out to the marshal by the present plaintiffs, acting therein by their authorized agents and attorneys, and

that the property so pointed out and seized exceeded in value more than double the amount claimed by said Durand with costs. Six of said slaves not having been sold, while those that were sold produced at forced sale above the sum of three thousand three hundred dollars; that a large share of the costs of said judgment of said Durand, and of said seizure and sale, which costs are embraced in the judgment now complained of against said Weems, were caused by illegally taking said slaves from the parish of St. Tammany, where they resided, and by bringing them to, and keeping them, in New Orleans, to which the present plaintiffs consented, and by medical attendance upon said slaves while in New Orleans; when in truth the slaves by law should have been seized and sold in the said parish of St. Tammany, and when in truth it was wholly unnecessary to have pointed out so many slaves.

5th. That in order to prove on the trial of this suit that all the claims against said succession had been paid by the present plaintiffs, their counsel offered in evidence a simple certificate of the clerk of the district court for the parish of St. Tammany, which certificate did not contain, or purport to contain, a transcript of any papers or documents on file in said court showing such payment. This certificate was objected to by defendant, and admitted by the court in evidence.

6th. That in order to prove that said Durand had heretofore obtained an order of seizure and sale against said Weems, to enforce the payment by him of said notes, and that said Weems had taken a suspensive appeal from said order of seizure and sale, the plaintiffs herein offered at the trial of this suit parol evidence without producing a transcript of said proceedings, or showing that the record thereof was lost or destroyed, to which evidence the said Weems objected, but the objection was overruled, and the evidence admitted.

7th. That pending a motion for a new trial in this suit, and after the rendition of the judgment complained of, upon the plaintiffs filing a remittitur for a portion of the amount granted in said judgment, the court altered and changed the judgment without first granting a new trial for that purpose.

8th. That the said judgment is further erroneous in matters apparent upon the face of the papers.

Wherefore the said Weems prays for a writ of errror, and that the record and proceedings herein be duly sent and certified to the Supreme Court of the United States, to be holden at Washington, in the District of Columbia, on the second Monday of January next; and that on his giving bond and security, according to law, further proceedings in this suit, and upon the judgment herein rendered, be stayed; and, as in duty bound, will ever pray, &c.

EMERSON & WHITTAKER,
Of counsel.

And afterwards, to wit, on the 29th day of April, 1850, the following entry was made on the minutes:

4446

ANN GEORGE et als. } 1861.
vs.
ALEX. W. WEEMS. }

On motion of Whittaker, esq., of counsel for defendant, and on filing his petition representing that said defendant felt aggrieved at the judgment herein rendered on the 22d instant, and praying a writ of error to operate as a supersedeas, and returnable to the next term of the Supreme Court of the United States; it is ordered, that said writ be allowed as prayed for, on said defendant's giving bond with good and sufficient security in the penal sum of five thousand dollars conditioned according to law.

United States of America, circuit court of the United States, fifth circuit and eastern district of Louisiana, clerk's office.

I, John W. Gurley, clerk of the circuit court of the United States, for the fifth circuit and eastern district of Louisiana, do hereby certify, that the foregoing 27 pages contain and form a full, complete, true, and perfect transcript of the record and proceedings had on the trial of the case of Ann George et als. vs. Alexander W. Weems, No. 1861 of the docket, so far as the same now remains of record or on file in said court.

Witness my hand and the seal of said court, at the city of New Orleans, this 22d day of August, A. D. 1850.

[SEAL.]

J. W. GURLEY, *Clerk.*

I, Theodore H. McCaleb, United States judge for the eastern district of Louisiana, do hereby certify, that John W. Gurley, whose name is signed to the above certificate as clerk of the circuit court of the United States, for the fifth circuit and eastern district of Louisiana, was, at the time of signing said certificate, and is now, the clerk of said court; that said certificate is in due form of law, and that full faith and credit are due to his official attestations as such clerk.

Given under my hand and seal, at the city of New Orleans, in said district, this 22d day of August, A. D. 1850.

THEO. H. McCALEB. [SEAL.]

The United States of America, to Ann George, Conolly George, Rose Ann George, wife of John Steen, Mary Ann George, wife of Thomas Conn, Nancy George, wife of James Gilmour, Margaret George, wife of William Miller, John Steen, Thomas Conn, James Gilmour, and William Miller, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at the city of Washington on the first Monday of December next, pursuant to a writ of error filed in the clerk's office of the circuit court of the United States, for the 5th circuit and eastern district of Louisiana, wherein Alexander W. Weems is plain-